

INTELLIGENCE AUTHORIZATION ACT, FISCAL YEAR 1990

NOVEMBER 16, 1989.—Ordered to be printed

Mr. BEILENSEN, from the committee of conference,
submitted the following

CONFERENCE REPORT

[To accompany H.R. 2748]

The committee of conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2748) to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, having met, after full and free conference, having agreed to recommend and do recommend to their respective Houses as follows:

That the House recede from its disagreement to the amendment of the Senate and agree to the same with an amendment as follows:

In lieu of the matter proposed to be inserted by the Senate amendment insert the following:

That this Act may be cited as the "Intelligence Authorization Act, Fiscal Year 1990."

TITLE I—INTELLIGENCE ACTIVITIES

AUTHORIZATION OF APPROPRIATIONS

SEC. 101. Funds are hereby authorized to be appropriated for fiscal year 1990 for the conduct of the intelligence and intelligence-related activities of the following elements of the United States Government:

- (1) The Central Intelligence Agency.*
- (2) The Department of Defense.*
- (3) The Defense Intelligence Agency.*
- (4) The National Security Agency.*
- (5) The Department of the Army, the Department of the Navy, and the Department of the Air Force.*

- (6) *The Department of State.*
- (7) *The Department of the Treasury.*
- (8) *The Department of Energy.*
- (9) *The Federal Bureau of Investigation.*
- (10) *The Drug Enforcement Administration.*

CLASSIFIED SCHEDULE OF AUTHORIZATIONS

SEC. 102. The amounts authorized to be appropriated under section 101, and the authorized personnel ceilings as of September 30, 1990, for the conduct of the intelligence and intelligence-related activities of the elements listed in such section, are those specified in the classified Schedule of Authorizations prepared by the Committee of Conference to accompany H.R. 2748 of the One Hundred First Congress. That Schedule of Authorizations shall be made available to the Committee on Appropriations of the Senate and House of Representatives and to the President. The President shall provide for suitable distribution of the schedule, or of appropriate portions of the schedule, within the executive branch.

PERSONNEL CEILING ADJUSTMENTS

SEC. 103. The Director of Central Intelligence may authorize employment of civilian personnel in excess of the numbers authorized for fiscal year 1990 under sections 102 and 202 of this Act when he determines that such action is necessary to the performance of important intelligence functions, except that such number may not, for any element of the intelligence community, exceed two percent of the number of civilian personnel authorized under such sections for such element. The Director of Central Intelligence shall promptly notify the Permanent Select Committee on Intelligence of the House of Representatives and the Select Committee on Intelligence of the Senate whenever he exercises the authority granted by this section.

RESTRICTION ON SUPPORT FOR MILITARY OR PARAMILITARY OPERATIONS IN NICARAGUA

SEC. 104. Funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated and expended during fiscal year 1990 to provide funds, materiel, or other assistance to the Nicaraguan democratic resistance to support military or paramilitary operations in Nicaragua only as authorized in section 101 and as specified in the classified Schedule of Authorizations referred to in section 102, or pursuant to section 502 of the National Security Act of 1947, or pursuant to any provision of law specifically providing such funds, materiel, or assistance.

TITLE II—INTELLIGENCE COMMUNITY STAFF

AUTHORIZATION OF APPROPRIATIONS

SEC. 201. There is authorized to be appropriated for the Intelligence Community staff for fiscal year 1990 the sum of \$26,900,000.

AUTHORIZATION OF PERSONNEL END STRENGTH

SEC. 202. (a) The Intelligence Community staff is authorized 240 full-time personnel as of September 30, 1990. Such personnel of the Intelligence Community staff may be permanent employees of the Intelligence Community staff or personnel detailed from other elements of the United States Government.

(b) During fiscal year 1990, personnel of the Intelligence Community staff shall be selected so as to provide appropriate representation from elements of the United States Government engaged in intelligence and intelligence-related activities.

(c) During fiscal year 1990, any officer or employee of the United States or a member of the Armed Forces who is detailed to the Intelligence Community staff from another element of the United States Government shall be detailed on a reimbursable basis, except that any such officer, employee, or member may be detailed on a non-reimbursable basis for a period of less than one year for the performance of temporary functions as required by the Director of Central Intelligence.

INTELLIGENCE COMMUNITY STAFF ADMINISTERED IN SAME MANNER AS
CENTRAL INTELLIGENCE AGENCY

SEC. 203. During fiscal year 1990, activities and personnel of the Intelligence Community staff shall be subject to the provisions of the National Security Act of 1947 (50 U.S.C. 401 et seq.) and the Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) in the same manner as activities and personnel of the Central Intelligence Agency.

TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND DISABILITY SYSTEM AND RELATED PROVISIONS

AUTHORIZATION OF APPROPRIATIONS

SEC. 301. There is authorized to be appropriated for the Central Intelligence Agency Retirement and Disability Fund for fiscal year 1990 the sum of \$154,900,000.

ELIGIBILITY FOR ANNUITY

SEC. 302. The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

- (1) by redesignating section 236 as section 237; and*
- (2) by inserting after section 235 the following new section:*

“ELIGIBILITY FOR ANNUITY

“SEC. 236. A participant must complete, within the last two years before any separation from service, except a separation because of death or disability, at least one year of creditable civilian service during which he or she is subject to this title before he or she or his or her survivors are eligible for an annuity under this title based on the separation. If a participant, except a participant separated from the service because of death or disability, fails to meet the service requirement of the preceding sentence, the amounts deducted from

his or her pay during the period for which no eligibility is established based on the separation shall be returned to him or her on the separation. Failure to meet this service requirement does not deprive the individual or his or her survivors of annuity rights which attached on a previous separation.”

PRECEDENCE OF SECTION 224 SURVIVOR BENEFITS OVER SECTION 232 DEATH-IN-SERVICE BENEFITS

SEC. 303. Section 232(b) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended—

(1) by adding at the end of paragraph (1) thereof the following new sentence: “Payment of death-in-service benefits for former spouses is also subject to paragraph (4) of this subsection.”; and

(2) by adding after paragraph (3) thereof the following:

“(4) If a former spouse eligible for death-in-service benefits under provisions of this section is or becomes eligible for survivor benefits under section 224, the benefits provided under this section will not be payable and will be superseded by the benefits provided in section 224.”

COMPUTATION OF SURVIVOR BENEFIT FOR FORMER SPOUSES

SEC. 304. (a) Section 224(a)(2) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by striking out “and also by an amount” and all that follows through “by the United States”.

(b) The amendment made by this section shall be effective as of October 1, 1986.

SPECIAL ANNUITY COMPUTATION RULES FOR CERTAIN CIA EMPLOYEES’ SERVICE ABROAD

SEC. 305. The Central Intelligence Agency Act of 1949 (50 U.S.C. 403a et seq.) is amended by adding at the end the following new section:

“SPECIAL ANNUITY COMPUTATION RULES FOR CERTAIN EMPLOYEES’ SERVICE ABROAD

“SEC. 18. (a) Notwithstanding any provision of chapter 83 of title 5, United States Code, the annuity under subchapter III of such chapter of an officer or employee of the Central Intelligence Agency who retires on or after October 1, 1989, is not designated under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, and has served abroad as an officer or employee of the Agency on or after January 1, 1987, shall be computed as provided in subsection (b).

“(b)(1) The portion of the annuity relating to such service abroad that is actually performed at any time during the officer’s or employee’s first ten years of total service shall be computed at the rate and using the percent of average pay specified in section 8339(a)(3) of title 5, United States Code, that is normally applicable only to so much of an employee’s total service as exceeds ten years.

“(2) The portion of the annuity relating to service abroad as described in subsection (a) but that is actually performed at any time

after the officer's or employee's first ten years of total service shall be computed as provided in section 8339(a)(3) of title 5, United States Code; but, in addition, the officer or employee shall be deemed for annuity computation purposes to have actually performed an equivalent period of service abroad during his or her first ten years of total service, and in calculating the portion of the officer's or employee's annuity for his or her first ten years of total service, the computation rate and percent of average pay specified in paragraph (1) shall also be applied to the period of such deemed or equivalent service abroad.

"(3) The portion of the annuity relating to other service by an officer or employee as described in subsection (a) shall be computed as provided in the provisions of section 8339(a) of title 5, United States Code, that would otherwise be applicable to such service.

"(4) For purposes of this subsection, the term 'total service' has the meaning given such term under chapter 83 of title 5, United States Code.

"(c) For purposes of subsections (f) through (m) of section 8339 of title 5, United States Code, an annuity computed under this section shall be deemed to be an annuity computed under subsections (a) and (o) of section 8339 of title 5, United States Code.

"(d) The provisions of subsection (a) of this section shall not apply to an officer or employee of the Central Intelligence Agency who would otherwise be entitled to a greater annuity computed under an otherwise applicable subsection of section 8339 of title 5, United States Code."

PORTABILITY OF OVERSEAS SERVICE RETIREMENT BENEFIT

SEC. 306. The special accrual rates provided by section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees and by section 18 of the Central Intelligence Agency Act of 1949 for computation of the annuity of an individual who has served abroad as an officer or employee of the Central Intelligence Agency shall be used to compute that portion of the annuity of such individual relating to such service abroad whether or not the individual is employed by the Central Intelligence Agency at the time of retirement from Federal service.

DISABILITY RETIREMENT AND DEATH-IN-SERVICE BENEFITS

SEC. 307. (a) The Central Intelligence Agency Act of 1949, as amended (50 U.S. 403a et seq.), is amended by adding after section 18 the following new section:

"SPECIAL RULES FOR DISABILITY RETIREMENT AND DEATH-IN-SERVICE BENEFITS WITH RESPECT TO CERTAIN EMPLOYEES

"SEC. 19. (a) Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83 of title 5, United States Code, who—

"(i) has five years of civilian service credit toward retirement under such subchapter III of chapter 83, title 5, United States Code;

"(ii) has not been designated under section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), as a participant in the Central Intelligence Agency Retirement and Disability System;

"(iii) has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation under section 203; and

"(iv) satisfies the requirements for disability retirement under section 8337 of title 5, United States Code—

shall, upon his own application or upon order of the Director, be retired on an annuity computed in accordance with the rules prescribed in such section 231, in lieu of an annuity computed as provided by section 8337 of title 5, United States Code.

"(b) Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under subchapter III of chapter 83, title 5, United States Code, who—

"(i) has at least eighteen months of civilian service credit toward retirement under such subchapter III of chapter 83, title 5, United States Code;

"(ii) has not been designated under section 203 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), as a participant in the Central Intelligence Agency Retirement and Disability System;

"(iii) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation under such section 203; and

"(iv) is survived by a widow or widower, former spouse, and/or a child or children as defined in section 204 and section 232 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, who would otherwise be entitled to an annuity under section 8341 of title 5, United States Code—

such widow or widower, former spouse, and/or child or children of such officer or employee shall be entitled to an annuity computed in accordance with such section 232, in lieu of an annuity computed in accordance with section 8341 of title 5, United States Code.

"(c) Notwithstanding any other provision of law, an officer or employee of the Central Intelligence Agency subject to retirement system coverage under chapter 84 of title 5, United States Code, who—

"(i) has completed at least eighteen months of civilian service creditable under section 8411 of title 5, United States Code;

"(ii) has not been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note);

"(iii) has become disabled during a period of assignment to the performance of duties that are qualifying toward such designation pursuant to such section; and

"(iv) satisfies the requirements for disability retirement under subchapter V of chapter 84, title 5, United States Code—

shall, on the officer's or employee's own application or an application by the Director, be retired on an annuity computed as if the of-

ficier or employee, prior to becoming disabled, had been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), in lieu of the annuity amount that would otherwise be computed under subchapter V of chapter 84 of title 5, United States Code.

“(d) Notwithstanding any other provision of law, in the case of an officer or employee of the Central Intelligence Agency subject to retirement system coverage under chapter 84 of title 5, United States Code, who—

“(i) has at least eighteen months of civilian service creditable under section 8411 of title 5, United States Code;

“(ii) has not been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note);

“(iii) prior to separation or retirement from the Agency, dies during a period of assignment to the performance of duties that are qualifying toward such designation pursuant to such section; and

“(iv) is survived by a widow or widower, former spouse, and/or child or children as defined in section 8441 of title 5, United States Code, who would be entitled to a lump-sum survivor benefit, a survivor annuity and/or if applicable, a supplementary annuity, under subchapter IV of chapter 84, title 5, United States Code—

the survivor benefit or benefits of such widow or widower, former spouse, and/or child or children shall be computed as if the officer or employee, prior to death, had been designated pursuant to section 302(a) of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees, as amended (50 U.S.C. 403 note), in lieu of the benefit amount or amounts that would otherwise be computed pursuant to subchapter IV of chapter 84, title 5, United States Code.

“(e)(1) The annuities provided under subsections (a) and (b) of this section shall be deemed to be annuities under chapter 83 of title 5, United States Code, for purposes of the other provisions of such chapter and other laws (including the Internal Revenue Code of 1986) relating to such annuities, but shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.

“(2) The annuities and/or other benefits provided under subsections (c) and (d) of this section shall be deemed to be annuities and/or benefits under chapter 84 of title 5, United States Code, for purposes of the other provisions of such chapter and other laws (including the Internal Revenue Code of 1986) relating to such annuities and/or benefits, but shall be payable from the Central Intelligence Agency Retirement and Disability Fund established by section 202 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees.”

(b) The Central Intelligence Agency Retirement Act of 1964 for Certain Employees is amended by adding at the end of Title II the following new section:

"PAYMENTS FROM CIARDS FUND FOR PORTIONS OF CERTAIN CIVIL SERVICE RETIREMENT SYSTEM ANNUITIES

"SEC. 295. Notwithstanding any other provision of law, the amount of the increase in any annuity that results from the application of section 18 of the Central Intelligence Agency Act of 1949, if and when such increase is based on an individual's overseas service as an employee of the Central Intelligence Agency, shall be paid from the fund."

TITLE IV—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

REMOTE SENSING PROCUREMENT AUTHORITY

SEC. 401. In the performance of its functions, the Central Intelligence Agency may use its funds to procure commercial remote sensing data by whatever means the Agency deems to be appropriate notwithstanding any provision of law directing the procurement of such data through other Government agencies.

TITLE V—IMPROVEMENTS TO PERSONNEL AUTHORITIES FOR INTELLIGENCE COMPONENTS OF THE DEPARTMENT OF DEFENSE

SPECIAL PAY FOR FOREIGN LANGUAGE PROFICIENCY

SEC. 501. (a)(1) Chapter 81 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 1592. Foreign language proficiency: special pay

"(a) The Secretary of Defense may pay special pay under this section to a civilian officer or employee of the Department of Defense who—

"(1) has been certified as being proficient in a foreign language identified by the Secretary of Defense as being a language in which proficiency by civilian personnel of the Department is important for the effective collection, production, or dissemination of foreign intelligence information; and

"(2) is serving in a position, or is subject to assignment to a position, in which proficiency in that language facilitates performance of officially assigned intelligence or intelligence-related duties.

"(b) The annual rate of special pay under subsection (a) shall be determined by the Secretary of Defense.

"(c) Special pay under this section may be paid in addition to any compensation authorized under section 1604(b) of this title for which an officer or employee is eligible."

(2) The table of sections at the beginning of such chapter is amended by adding at the end thereof the following new item:

"§ 1592. Foreign language proficiency: special pay."

(b) Section 1592 of title 10, United States Code, as added by subsection (a), shall take effect on the first day of the first pay period beginning on or after the later of—

(1) October 1, 1989, or

(2) the date of the enactment of this Act.

DEFENSE INTELLIGENCE COLLEGE GIFT ACCEPTANCE AUTHORITY

SEC. 502. (a) Chapter 155 of title 10, United States Code, is amended by adding at the end thereof the following new section:

"§ 2607. Acceptance of gifts for the Defense Intelligence College

"(a) The Secretary of Defense may accept, hold, administer, and use any gift (including any gift of an interest in real property) made for the purpose of aiding and facilitating the work of the Defense Intelligence College and may pay all necessary expenses in connection with the acceptance of such a gift.

"(b) Money, and proceeds from the sale of property, received as a gift under subsection (a) shall be deposited in the Treasury and shall be available for disbursement upon the order of the Secretary of Defense to the extent provided in annual appropriation Acts.

"(c) Subsection (c) of section 2601 of this title applies to property that is accepted under subsection (a) in the same manner that such subsection applies to property that is accepted under subsection (a) of that section.

"(d) In this section, the term 'gift' includes a bequest of personal property or a devise of real property."

(b) The table of sections at the beginning of that chapter is amended by adding at the end thereof the following new item:

"2607. Acceptance of gifts for the Defense Intelligence College."

PERMANENT AUTHORITY TO TERMINATE EMPLOYMENT OF CIVILIAN INTELLIGENCE OFFICERS AND EMPLOYEES OF MILITARY DEPARTMENTS AND OF THE DEFENSE INTELLIGENCE AGENCY

SEC. 503. (a) Section 1590(e)(1) of title 10, United States Code, is amended by striking out ", during fiscal years 1988 and 1989,".

(b) Section 1604(e)(1) of such title is amended by striking out ", during fiscal years 1988 and 1989,".

DEFENSE ATTACHE DEATH GRATUITY

SEC. 504. (a) During fiscal year 1990, the Secretary of Defense may pay a death gratuity identical to that payable under section 1489(b) of title 10, United States Code, to the surviving dependents of a member of the Armed Forces who, while serving on active duty assigned to a Defense Attache office outside the United States, died as a result of hostile or terrorist activities.

(b) The death gratuity referred to in subsection (a) may be paid with respect to an individual who died on or after June 15, 1988.

(c) The Secretary of Defense shall submit to Congress no later than March 1, 1990, a report concerning the advisability of permanent law permitting the payment of death gratuities to the survivors of any member of the armed services who, while on active duty assigned to a Defense Attache office outside the United States, dies as a result of hostile or terrorist activities.

**SPECIAL ANNUITY COMPUTATION RULES FOR PERIODS OF SERVICE
ABROAD FOR CERTAIN DIA AND NSA EMPLOYEES**

SEC. 505. (a) Section 1605(a) of title 10, United States Code, is amended—

(1) by striking out “who are subject to chapter 84 of title 5,” in the last sentence; and

(2) by striking out the period at the end and inserting in lieu thereof “and in section 18 of the Central Intelligence Agency Act of 1949.”.

(b) Section 9(b) of the National Security Agency Act of 1959 (50 U.S.C. 402 note) is amended—

(1) in paragraph (1)(B), by striking “(including special” and all that follows through “note); and” and inserting in lieu thereof a semicolon;

(2) by striking the period at the end of paragraph (2) and inserting in lieu thereof “; and”; and

(3) by adding at the end the following new paragraph:

“(3) special retirement accrual in the same manner provided in section 303 of the Central Intelligence Agency Retirement Act of 1964 for Certain Employees (50 U.S.C. 403 note) and in section 18 of the Central Intelligence Agency Act of 1949.”.

**REQUIREMENTS FOR CITIZENSHIP FOR STAFF OF UNITED STATES ARMY
RUSSIAN INSTITUTE**

SEC. 506. (a) For purposes of section 319(c) of the Immigration and Nationality Act (8 U.S.C. 1430(c)), the United States Army Russian Institute, located in Garmisch, Federal Republic of Germany, shall be considered to be an organization described in clause (1) of this section.

(b) Subsection (a) shall apply with respect to periods of employment before, on, or after the date of the enactment of this Act.

(c) No more than two persons per year may be naturalized based on the provisions of subsection (a).

(d) Each instance of naturalization based on the provisions of subsection (a) shall be reported to the Committees on the Judiciary of the Senate and House of Representatives and to the Select Committee on Intelligence of the Senate and the Permanent Select Committee on Intelligence of the House of Representatives prior to such naturalization.

DEFENSE INTELLIGENCE AGENCY ACQUISITION OF CRITICAL SKILLS

SEC. 507. (a)(1) Chapter 83 of title 10, United States Code, is amended by adding at the end thereof the following new section:

“§ 1608. Financial assistance to certain employees in acquisition of critical skills

“(a) The Secretary of Defense shall establish an undergraduate training program with respect to civilian employees of the Defense Intelligence Agency that is similar in purpose, conditions, content, and administration to the program which the Secretary of Defense is authorized to establish under section 16 of the National Security Agency Act of 1959 (50 U.S.C. 402 note) for civilian employees of the National Security Agency.

“(b) Any payments made by the Secretary to carry out the program required to be established by subsection (a) may be made in any fiscal year only to the extent that appropriated funds are available for that purpose.”

(2) The table of sections at the beginning of that chapter is amended by adding at the end thereof the following new item:

“1608. Financial assistance to certain employees in acquisition of critical skills.”

(b) Section 1608 of title 10, United States Code, as added by subsection (a), shall take effect on the date of enactment of this Act.

TITLE VI—FBI NEW YORK FIELD DIVISION DEMONSTRATION PROJECT

FBI NEW YORK FIELD DIVISION DEMONSTRATION PROJECT

SEC. 601. (a) Section 601(a)(2) of the Intelligence Authorization Act, Fiscal Year 1989 is amended by striking out “who are subject by policy and practice to directed geographical transfer or reassignment”.

(b) The amendment made by Subsection (a) shall take effect on October 1, 1989.

(c) In preparing for submission to the Congress the Budget of the United States for Fiscal Year 1991, the President shall take into account and, to the greatest extent possible, incorporate into such budget the recommendations of the National Advisory Commission on Law Enforcement as established by section 6160 of the Anti-Drug Abuse Act of 1988.

PERSONNEL CEILING ON UNITED STATES AND SOVIET MISSIONS

SEC. 602. It is the sense of the Congress that the ceiling on permanent positions at the United States Mission to the Soviet Union and the Soviet Mission to the United States should not be increased unless—

(a) the President determines that such increase is essential to the effective functioning of the United States Mission to the Soviet Union; and

(b) the FBI is provided sufficient additional resources to fulfill its responsibilities resulting from the increased number of permanent positions at the Soviet Mission to the United States.

FBI INVESTIGATIONS OF ESPIONAGE BY PERSONS EMPLOYED BY OR ASSIGNED TO UNITED STATES DIPLOMATIC MISSIONS ABROAD

SEC. 603. Subject to the authority of the Attorney General, the FBI shall supervise the conduct of all investigations of violations of the espionage laws of the United States by persons employed by or assigned to United States diplomatic missions abroad. All departments and agencies shall report immediately to the FBI any information concerning such a violation. All departments and agencies shall provide appropriate assistance to the FBI in the conduct of such investigations. Nothing in this provision shall be construed as establishing a defense to any criminal, civil, or administrative action.

TITLE VII—GENERAL PROVISIONS

INCREASE IN EMPLOYEE COMPENSATION AND BENEFITS AUTHORIZED BY LAW

SEC. 701. Appropriations authorized by this Act for salary, pay, retirement, and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law.

RESTRICTION ON CONDUCT OF INTELLIGENCE ACTIVITIES

SEC. 702. The authorization of appropriations by this Act shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States.

PRESIDENTIAL REPORT ON COORDINATION OF DRUG INTELLIGENCE ACTIVITIES

SEC. 703. Not later than April 1, 1990, the President shall submit to Congress a report describing how intelligence activities relating to narcotics trafficking can be integrated, including coordinating the collection and analysis of intelligence information, ensuring the dissemination of relevant intelligence information to officials with responsibility for narcotics policy and to agencies of the United States Government responsible for interdiction, eradication, law enforcement, and other counternarcotics activities, and coordinating and controlling all counternarcotics intelligence activities.

TITLE VIII—INSPECTOR GENERAL FOR CENTRAL INTELLIGENCE AGENCY

INSPECTOR GENERAL FOR CENTRAL INTELLIGENCE AGENCY

SEC. 801. Section 17 of the Central Intelligence Agency Act of 1949 (50 U.S.C. 403q) is amended to read as follows:

“SEC. 17. INSPECTOR GENERAL FOR THE AGENCY.

“(a) PURPOSE; ESTABLISHMENT.—In order to—

“(1) create an objective and effective office, appropriately accountable to Congress, to initiate and conduct independently inspections, investigations, and audits relating to programs and operations of the Agency;

“(2) provide leadership and recommend policies designed to promote economy, efficiency, and effectiveness in the administration of such programs and operations, and detect fraud and abuse in such programs and operations;

“(3) provide a means for keeping the Director fully and currently informed about problems and deficiencies relating to the administration of such programs and operations, and the necessity for and the progress of corrective actions; and

“(4) in the manner prescribed by this section, ensure that the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence (hereafter in this section referred to collectively as the ‘intelligence committees’) are kept similarly informed of significant problems and deficiencies as well as the necessity for and the progress of corrective actions,

there is hereby established in the Agency an Office of Inspector General (hereafter in this section referred to as the 'Office').

"(b) APPOINTMENT; SUPERVISION; REMOVAL.—(1) There shall be at the head of the Office of Inspector General who shall be appointed by the President, by and with the advice and consent of the Senate. This appointment shall be made without regard to political affiliation and shall be solely on the basis of integrity, compliance with the security standards of the Agency, and prior experience in the field of foreign intelligence. Such appointment shall also be made on the basis of demonstrated ability in accounting, financial analysis, law, management analysis, or public administration.

"(2) The Inspector General shall report directly to and be under the general supervision of the Director.

"(3) The Director may prohibit the Inspector General from initiating, carrying out, or completing any audit, inspection, or investigation if the Director determines that such prohibition is necessary to protect vital national security interests of the United States.

"(4) If the Director exercises any power under paragraph (3), he shall submit an appropriately classified statement of the reasons for the exercise of such power within seven days to the intelligence committees. The Director shall advise the Inspector General at the time such report is submitted, and, to the extent consistent with the protection of intelligence sources and methods, provide the Inspector General with a copy of any such report. In such cases, the Inspector General may submit such comments to the intelligence committees that he considers appropriate.

"(5) In accordance with section 535 of title 28, United States Code, the Director shall report to the Attorney General any information, allegation, or complaint received from the Inspector General, relating to violations of Federal criminal law involving any officer or employee of the Agency, consistent with such guidelines as may be issued by the Attorney General pursuant to subsection (b)(2) of such section. A copy of all such reports shall be furnished to the Inspector General.

"(6) The Inspector General may be removed from office only by the President. The President shall immediately communicate in writing to the intelligence committees the reasons for any such removal.

"(c) DUTIES AND RESPONSIBILITIES.—It shall be the duty and responsibility of the Inspector General appointed under this section—

"(1) to provide policy direction for, and to conduct, supervise, and coordinate independently, the inspections, investigations, and audits relating to the programs and operations of the Agency to ensure they are conducted efficiently and in accordance with applicable law and regulations;

"(2) to keep the Director fully and currently informed concerning violations of law and regulations, fraud, and other serious problems, abuses, and deficiencies that may occur in such programs and operations, and to report the progress made in implementing corrective action;

"(3) to take due regard for the protection of intelligence sources and methods in the preparation of all reports issued by the Office, and, to the extent consistent with the purpose and objective of such reports, take such measures as may be appro-

appropriate to minimize the disclosure of intelligence sources and methods described in such reports; and

"(4) in the execution of his responsibilities, to comply with generally accepted government auditing standards.

"(d) SEMIANNUAL REPORTS; IMMEDIATE REPORTS OF SERIOUS OR FLAGRANT PROBLEMS; REPORTS OF FUNCTIONAL PROBLEMS.—(1) The Inspector General shall, not later than June 30 and December 31 of each year, prepare and submit to the Director of Central Intelligence a classified semiannual report summarizing the activities of the Office during the immediately preceding six-month period. Within 30 days, the Director shall transmit such reports to the intelligence committees with any comments he may deem appropriate. Such reports shall, at a minimum, include a list of the title or subject of each inspection, investigation, or audit conducted during the reporting period and—

"(A) a description of significant problems, abuses, and deficiencies relating to the administration of programs and operations of the Agency identified by the Office during the reporting period;

"(B) a description of the recommendations for corrective action made by the Office during the reporting period with respect to significant problems, abuses, or deficiencies identified in subparagraph (A);

"(C) a statement of whether corrective action has been completed on each significant recommendation described in previous semiannual reports, and, in a case where corrective action has been completed, a description of such corrective action;

"(D) a certification that the Inspector General has had full and direct access to all information relevant to the performance of his functions;

"(E) a description of all cases occurring during the reporting period where the Inspector General could not obtain documentary evidence relevant to any inspection, audit, or investigation due to his lack of authority to subpoena such information; and

"(F) such recommendations as the Inspector General may wish to make concerning legislation to promote economy and efficiency in the administration of programs and operations undertaken by the Agency, and to detect and eliminate fraud and abuse in such programs and operations.

"(2) The Inspector General shall report immediately to the Director whenever he becomes aware of particularly serious or flagrant problems, abuses, or deficiencies relating to the administration of programs or operations. The Director shall transmit such report to the intelligence committees within seven calendar days, together with any comments he considers appropriate.

"(3) In the event that—

"(A) the Inspector General is unable to resolve any differences with the Director affecting the execution of the Inspector General's duties or responsibilities;

"(B) an investigation, inspection, or audit carried out by the Inspector General should focus upon the Director or Acting Director; or

"(C) the Inspector General, after exhausting all possible alternatives, is unable to obtain significant documentary informa-

tion in the course of an investigation, the Inspector General shall immediately report such matter to the intelligence committees.

"(4) Pursuant to Title V of the National Security Act of 1947, the Director shall submit to the intelligence committees any report of an inspection, investigation, or audit conducted by the office which has been requested by the Chairman or Ranking Minority Member of either committee.

"(e) **AUTHORITIES OF THE INSPECTOR GENERAL.**—(1) The Inspector General shall have direct and prompt access to the Director, when necessary for any purpose pertaining to the performance of his duties.

"(2) The Inspector General shall have access to any employee or any employee of a contractor of the Agency whose testimony is needed for the performance of his duties. In addition, he shall have direct access to all records, reports, audits, reviews, documents, papers, recommendations, or other material which relate to the programs and operations with respect to which the Inspector General has responsibilities under this section. Failure on the part of any employee or contractor to cooperate with the Inspector General shall be grounds for appropriate administrative actions by the Director, to include loss of employment or the termination of an existing contractual relationship.

"(3) The Inspector General is authorized to receive and investigate complaints or information from an employee of the Agency concerning the existence of an activity constituting a violation of laws, rules, or regulations, or mismanagement, gross waste of funds, abuse of authority, or a substantial and specific danger to the public health and safety. Once such complaint or information has been received—

"(A) the Inspector General shall not disclose the identity of the employee without the consent of the employee, unless the Inspector General determines that such disclosure is unavoidable during the course of the investigation; and

"(B) no action constituting a reprisal, or threat of reprisal, for making such complaint may be taken by any employee of the Agency in a position to take such actions, unless the complaint was made or the information was disclosed with the knowledge that it was false or with willful disregard for its truth or falsity.

"(4) The Inspector General shall have authority to administer to or take from any person an oath, affirmation, or affidavit, whenever necessary in the performance of his duties, which oath, affirmation, or affidavit when administered or taken by or before an employee of the Office designated by the Inspector General shall have the same force and effect as if administered or taken by or before an officer having a seal.

"(5) The Inspector General shall be provided with appropriate and adequate office space at central and field office locations, together with such equipment, office supplies, maintenance services, and communications facilities and services as may be necessary for the operation of such offices.

"(6) Subject to applicable law and the policies of the Director, the Inspector General shall select, appoint, and employ such officers

and employees as may be necessary to carry out his functions. In making such selections, the Inspector General shall ensure that such officers and employees have the requisite training and experience to enable him to carry out his duties effectively. In this regard, it is the sense of Congress that the Inspector General should create within his organization a career cadre of sufficient size to provide appropriate continuity and objectivity needed for the effective performance of his duties.

"(7) Subject to the concurrence of the Director, the Inspector General may request such information or assistance as may be necessary for carrying out his duties and responsibilities from any Federal agency. Upon request of the Inspector General for such information or assistance, the head of the Federal agency involved shall, insofar as it is practicable and not in contravention of any existing statutory restriction or regulation of the Federal agency concerned, furnish to the Inspector General, or to an authorized designee, such information or assistance.

"(f) SEPARATE BUDGET ACCOUNT.—Beginning with fiscal year 1991, and in accordance with procedures to be issued by the Director of Central Intelligence in consultation with the intelligence committees, the Director of Central Intelligence shall include in the National Foreign Intelligence Program budget a separate account for the Office of Inspector General established pursuant to this section.

"(g) TRANSFER.—There shall be transferred to the Office the office of the Agency referred to as the 'Office of Inspector General.' The personnel, assets, liabilities, contracts, property, records, and unexpended balances of appropriations, authorizations, allocations, and other funds employed, held, used, arising from, or available to such 'Office of Inspector General' are hereby transferred to the Office established pursuant to this section."

And the Senate agree to the same.

ANTHONY C. BEILENSON,
DAVE McCURDY,
ROBERT W. KASTENMEIER,
ROBERT A. ROE,
MATTHEW F. McHUGH,
BERNARD J. DWYER,
CHARLES WILSON,
BARBARA B. KENNELLY,
DAN GLICKMAN,
NICHOLAS MAVROULES,
BILL RICHARDSON,
STEPHEN J. SOLARZ,

From the Committee on Foreign Affairs, for the consideration of Title IX of the Senate amendment:

DANTE B. FASCELL,
LEE H. HAMILTON,

From the Committee on Armed Services, for the consideration of Department of Defense Tactical Intelligence and related activities:

LES ASPIN,
H. MARTIN LANCASTER,
WM. L. DICKINSON,

From the Committee on the Judiciary, for the consideration of Sections 503 and 601 of the Senate amendment:

DON EDWARDS,
 BRUCE A. MORRISON,
 HOWARD L. BERMAN,
Managers on the Part of the House.

DAVID LYLE BOREN,
 WILLIAM S. COHEN,
 SAM NUNN,
 BILL BRADLEY,
 ALAN CRANSTON,
 DENNIS DECONCINI,
 HOWARD M. METZENBAUM,
 JOHN GLENN,
 ORRIN G. HATCH,
 FRANK H. MURKOWSKI,
 ARLEN SPECTER,
 JOHN WARNER,
 ALFONSE M. D'AMATO,
 JOHN C. DANFORTH,

From the Armed Services Committee:

J.J. EXON,
 STROM THURMOND,
Managers on the Part of the Senate.

JOINT EXPLANATORY STATEMENT OF THE COMMITTEE OF CONFERENCE

The managers on the part of the House and the Senate at the conference on the disagreeing votes of the two Houses on the amendment of the Senate to the bill (H.R. 2748) to authorize appropriations for fiscal year 1990 for intelligence and intelligence-related activities of the United States Government, for the Intelligence Community Staff, for the Central Intelligence Agency Retirement and Disability System, and for other purposes, submit the following joint statement to the House and the Senate in explanation of the effect of the action agreed upon by the managers and recommended in the accompanying conference report:

The Senate amendment struck out all of the House bill after the enacting clause and inserted a substitute text.

The House recedes from its disagreement to the amendment of the Senate with an amendment which is a substitute for the House bill and the Senate amendment. The differences between the House bill, the Senate amendment, and the substitute agreed to in conference are noted below, except for clerical corrections, conforming changes made necessary by agreements reached by the conferees, and minor drafting and clarifying changes.

TITLE I—INTELLIGENCE ACTIVITIES

Due to the classified nature of intelligence and intelligence-related activities, a classified annex to this joint explanatory statement serves as a guide to the classified Schedule of Authorizations by providing a detailed description of program and budget authority contained therein as reported by the Committee of Conference.

The actions of the conferees on all matters at difference between the two Houses are shown below or in the classified annex to this joint statement.

A special conference group resolved differences between the House and Senate regarding DOD Intelligence Related Activities, referred to as Tactical Intelligence and Related Activities (TIARA). This special conference group was necessitated by the differing committee jurisdictions of the intelligence committees of the House and the Senate. This special conference group consisted of members of the House and Senate Committees on Armed Services and the House Permanent Select Committee on Intelligence.

The amounts listed for TIARA programs represent the funding levels jointly agreed to by the TIARA conferees and the House and Senate conferees for the National Defense Authorization Act, 1990. In addition, the TIARA conferees have agreed on the authorization level, as listed in the classified Schedule of Authorizations, the joint statement, and its classified annex, for TIARA programs which fall into the appropriation category of Military Pay.

TITLE I—INTELLIGENCE ACTIVITIES

SECTIONS 101 AND 102

Sections 101 and 102 of the conference report authorize appropriations for the intelligence and intelligence-related activities of the United States Government for fiscal year 1990 and establish personnel ceilings applicable to such activities.

SECTION 103

Section 103 of the conference report authorizes the Director of Central Intelligence to make adjustments in personnel ceilings in certain circumstances. Section 103 of the conference report is identical to section 103 of the House bill and section 103 of the Senate amendment.

The conferees emphasize that the authority conveyed by section 103 is not intended to permit the wholesale raising of personnel strength in each or any intelligence component. Rather, the section provides the Director of Central Intelligence with flexibility to adjust personnel levels temporarily for contingencies and for overages caused by an imbalance between hiring of new employees and attrition of current employees from retirement, resignation, and so forth. The conferees do not expect the Director of Central Intelligence to allow heads of intelligence components to plan to exceed personnel levels set in the Schedule of Authorizations except for the satisfaction of clearly identified hiring needs which are consistent with the authorization of personnel strengths in this bill. In no case is this authority to be used to provide for positions denied by this Act.

SECTION 104

Section 104 of the conference report provides that funds available to the Central Intelligence Agency, the Department of Defense, or any other agency or entity of the United States may be obligated or expended during fiscal year 1990 to provide funds, materiel, or other assistance to the Nicaraguan resistance to support military or paramilitary operations in Nicaragua only (1) as authorized pursuant to section 101 and as specified in the Classified Schedule of Authorizations referred to in section 102; (2) pursuant to section 502 of the National Security Act of 1947; or (3) pursuant to any provision of law specifically providing such funds, materiel, or assistance. Section 104 is identical to section 104 of the House bill. The Senate amendment did not contain a similar provision.

The conferees note that the conference report does not authorize any funds for covert assistance to opposition parties or candidates in the February, 1990 Nicaraguan elections. Further, the Classified Schedule of Authorizations prohibits use of the CIA's Reserve for Contingencies for such purpose, thus leaving a reprogramming request, which must be approved by the intelligence and appropriations committees of each House, as the only FY 1990 funding vehicle for covert assistance to the Nicaraguan electoral opposition if the Administration should change its mind and decide to provide such assistance.

TITLE II—INTELLIGENCE COMMUNITY STAFF

Title II of the conference report authorizes appropriations and personnel end-strengths for fiscal year 1990 for the Intelligence Community staff and provides for administration of the staff during fiscal year 1990 in the same manner as the Central Intelligence Agency. The conference report authorized \$26,900,000 and 240 personnel. The House bill authorized \$28,400,000 and 250 positions; the Senate amendment authorized \$25,100,000 and 230 positions.

SECURITY EVALUATION OFFICE

The Senate bill authorized \$4.5 million to be appropriated for the Security Evaluation Office (SEO) as part of the funds authorized to be appropriated for the Intelligence Community Staff. This was a reduction by half of the \$9 million request for SEO. The purpose of this reduction was to express dissatisfaction with the lack of cooperation demonstrated by both the State Department and the Intelligence Community in implementing the original plans for SEO to assist the Secretary of State in protecting U.S. diplomatic missions abroad against foreign intelligence activities. It was not intended to indicate any lack of Congressional support for an organization such as SEO within the Intelligence Community.

The House bill authorized \$7.8 million to be appropriated for SEO, also as part of the IC staff budget. Although the House expressed similar concerns about inadequate interdepartmental cooperation, the reduced authorization essentially reflected a reduced need for travel funds.

The conferees agree that \$6.3 million should be authorized to be appropriated for the Security Evaluation Office in the FY 1990 budget for the IC staff.

The conferees fully support the Security Evaluation Office and its important mission and wish to make clear that the less than requested authorization is primarily attributable to a change in SEO's mission and to other events which have occurred since the budget request was submitted.

In particular the establishment of the Office of Security Oversight within the State Department's Office of Inspector General, which, with the cooperation and support of SEO, will perform most of the inspection function, reduced SEO's funding requirement significantly. In addition, the initial inability of SEO and the Department of State to work out their differences has resulted in a SEO staffing level of 35 persons at the beginning of FY 1990, 25 persons below SEO's programmed figure. Therefore, funding for the full complement of 60 slots is not necessary or practical. Further, the \$6.8 million authorization allows a significant funding increase over actual SEO expenditures in FY 1989.

The conferees have previously expressed dismay at the slow start in redressing the grave deficiencies in embassy security that have come to light in recent years and by the attendant interagency wrangling, but are encouraged by the recent progress being made by the Department of State and the SEO in this area. Despite past difficulties, it appears new areas of cooperation are being expanded upon. The conferees fully recognize the formidable scope and con-

tentious nature of the issues facing these organizations; working together in such a difficult arena is no easy task. But it is imperative that both organizations continue down this path of cooperation. It's clearly time to put aside disputes about memoranda, presidential directives, and letters which have been overtaken by events and to get on with the critical mission at hand. While there was considerable delay in implementing SEO's initial objectives, in recent months SEO has made significant contributions to the development of embassy security standards and to the improvement of security inspections. SEO has assembled the only comprehensive compilation of existing security standards, policies and regulations from the multitude of agencies that work in U.S. missions abroad. It has provided important substantive input to the interagency process of formulating new security standards in certain areas. Since the State Department established an Office of Security Oversight in its Inspector General's Office, SEO has made available expertise and personnel that have been vital to the success of this innovative effort to assess the adequacy of security at diplomatic posts.

The conferees agree that the Secretary of State has the statutory authority and responsibility for security at U.S. missions abroad and that the Director of Central Intelligence has the statutory authority and responsibility for the protection of intelligence sources and methods. The Conferees also agree that the SEO should be the focal point for bringing to bear on embassy security problems the Intelligence Community's unique capabilities for evaluation of threats, vulnerabilities, and countermeasures.

There remains some concern, however, that the Executive Branch continues to be unable to formulate the mission of the SEO in a manner that can be agreed upon by the departments and agencies involved. It should be made clear, therefore, that the Conferees expect that the funds authorized herein shall be utilized under the direction of the DCI to assist the Secretary of State in discharging his responsibilities for protecting United States diplomatic missions abroad from foreign intelligence activities. To this end, SEO should perform the following functions: (1) analysis and evaluation of the threats to U.S. diplomatic missions abroad from foreign intelligence activities, the vulnerabilities of such missions to those threats, and the countermeasures against those threats; (2) participation in the development of standards and policies for the protection of such missions against those threats; and (3) assistance to other departments and agencies in the conduct of inspections at such missions to determine compliance with applicable standards and policies. SEO should continue to be directly responsible to the Director of Central Intelligence and should be the focal point for the Intelligence Community's advice to the Secretary of State on these matters. SEO should be able, when necessary, to advise the Secretary of State directly through the Director of Central Intelligence, rather than through departmental channels or interagency bodies.

**TITLE III—CENTRAL INTELLIGENCE AGENCY RETIREMENT AND
DISABILITY SYSTEM AND RELATED PROVISIONS**

SECTION 301

Section 301 of the conference report authorizes appropriations for fiscal year 1990 of \$154,900,000 for the CIA Retirement and Disability Fund. Both section 301 of the House bill and section 301 of the Senate amendment authorized \$154,900,000 for the Fund.

SECTION 302

Section 302 of the conference report requires a participant in the CIA Retirement and Disability System to complete within the last two years before retirement one year of qualifying service before becoming eligible for an annuity. Section 302 is identical to section 302 of the House bill and section 401 of the Senate amendment.

SECTION 303

Section 303 of the conference report clarifies language in the Intelligence Authorization Act for Fiscal Year 1989 in order to insure that certain CIA former spouses do not receive dual entitlements based on the death of the same spouse. Section 303 is identical to section 303 of the House bill and section 402 of the Senate amendment, with the latter's effective date deleted.

SECTION 304

Section 304 of the conference report eliminates a requirement of current law that a former spouse receiving a survivor benefit pursuant to section 224 of the Central Intelligence Agency Retirement Act for 1964 for Certain Employees must offset the benefit against a self-earned retirement annuity. Section 304 is identical to section 304 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 305

Section 305 of the conference report amends the CIA Act of 1949 to provide an increased retirement accrual rate to CIA employees covered by the Civil Service Retirement System applicable to those years the employee serves abroad. Section 305 is identical to section 305 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 306

Section 306 of the conference report insures that the retirement accrual rate increase provided by section 305 and a similar increase provided to CIA FERS employees in 1986 are retained for those periods of applicable CIA overseas service if the employee leaves CIA and becomes employed by another federal agency. Section 306 is identical to section 306 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 307

Section 307 of the conference report amends the CIA Act of 1949 to provide CIA employees in both the Civil Service Retirement System and the Federal Employees Retirement System (FERS) who are performing qualifying service for CIARDS or FERS—Special Category with the same disability and death-in-service benefits as received by those who have qualified for CIARDS and FERS—Special Category and those State Department employees covered by the Foreign Service Pension System and the Foreign Service Retirement and Disability System. Section 307 is substantially the same as section 307 of the Senate amendment, except that funding for the new benefit has been transferred from the Civil Service Retirement and Disability Fund to the CIA Retirement and Disability Fund. The House bill did not contain a similar provision.

TITLE IV—CENTRAL INTELLIGENCE AGENCY ADMINISTRATIVE PROVISIONS

SECTION 401

Section 401 of the conference report authorizes the CIA to purchase commercial remote sensing data from whatever source it deems appropriate rather than only from, as required by current law, the Defense Mapping Agency. Section 401 is identical to section 401 of the House bill. The Senate amendment did not contain a similar provision.

TITLE V—IMPROVEMENTS TO PERSONNEL AUTHORITIES FOR INTELLIGENCE COMPONENTS OF THE DEPARTMENT OF DEFENSE

SECTION 501

Section 501 of the conference report provides foreign language proficiency pay to civilian employees of the Department of Defense who are proficient in a foreign language determined by the Secretary to be important for the effective collection, production, or dissemination of foreign intelligence and who are serving in an intelligence-related position or could reasonably be expected to be assigned to such a position. Section 501 is identical to section 501 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 502

Section 502 of the conference report authorizes the Secretary of Defense to accept and use gifts made to further the educational activities of the Defense Intelligence College. Substantially similar provisions were contained in the House bill and the Senate amendment, although the House bill did not contain the requirement for depositing gifts of money or proceeds from the sale of property in the Treasury. The Conferees retained this requirement from the Senate amendment, with a modification noting that such Treasury funds can be disbursed by the Secretary of Defense only "to the extent provided in annual appropriations acts."

SECTION 503

Section 503 of the conference report amends sections 1590(e)(1) and 1604(e)(1) of Title 10 of the United States Code to extend permanently the special authority of the Secretary of Defense to terminate the employment of civilian intelligence officers and employees of the military departments and civilian employees of the Defense Intelligence Agency. Such authority has previously been authorized on a fiscal year basis. Section 503 is identical to section 503 of the House bill and sections 502 and 504 of the Senate amendment.

SECTION 504

Section 504 of the conference report extends for one year the authority of the Secretary of Defense to pay a death gratuity to the survivors of any member of the armed forces on active duty assignment to a Defense Attache Office outside the United States who died as a result of hostile or terrorist action. Section 504 is identical to section 505 of the Senate amendment. The House bill did not contain a similar provision.

SECTION 505

Section 505 of the conference report amends section 1605(a) of title 10, United States Code, and section 9(b) of the National Security Agency Act of 1959 to provide an increased retirement accrual rate to certain Defense Intelligence Agency and National Security Agency civil service employees applicable to those years the employee served abroad. The benefit provided is the same as that provided to CIA Civil Service employees by section 305 of the conference report. The Conferees note that the portability provision contained in section 306 of the conference report need not be repeated for the employees covered by section 505 because the original authorization language contained in section 1605 of title 10 and in section 9(b) of the National Security Agency Act of 1959 insures that the same benefits and authorities extended to CIA employees are provided to the relevant DIA and NSA employees.

Section 505 is identical to section 505 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 506

Section 506 of the conference report includes within the organizations described in section 319(c) of the Immigration and Naturalization Act the United States Army Russian Institute in Garmisch, West Germany. Employees of such organizations may be naturalized without regard to the prior residence or specified period of physical presence in the United States requirements of the Act. Section 506 is similar to section 503 of the Senate amendment, modified to limit its application to no more than two persons per year and to require that reports of naturalization made thereunder be made to the Senate and House Intelligence and Judiciary Committees.

SECTION 507

Section 507 of the conference report adds a new section 1608 to title 10, United States Code, which would require the Secretary of Defense to establish a Defense Intelligence Agency (DIA) program of financial assistance for undergraduate education and training similar in purpose, conditions, and administrations to the National Security Agency's (NSA) statutory program for the acquisition of critical skills. Section 507 is identical to section 504 of the House bill. The Senate amendment did not contain a similar provision.

Like the NSA program the purpose of this program would be to facilitate recruiting minorities, women and handicapped high school students capable of developing skills critical in areas such as mathematics, computer science, engineering and foreign languages.

Major occupations at DIA include intelligence research analysts in a variety of technical disciplines and foreign areas studies, computer scientists and engineers. Depending on the specific occupational category, the percentage of white male employees in these areas ranges from 77.4 percent to more than 91 percent. DIA pursues nationwide recruitment efforts for applicants with such occupational skills at institutions of higher education with significant numbers of women and minorities in their student bodies. However, DIA's hiring statistics over the years indicate that the success of these recruitment efforts to attract members of minority groups has been quite marginal. This undoubtedly is due, in part, to the fact that the private sector can generally outbid DIA for qualified potential applicants. DIA's sister intelligence agencies, CIA and NSA, have been more successful in their efforts to recruit women and minorities in critical skill areas, in part because they are larger and better known. Moreover, CIA and NSA already have critical skills acquisition programs like the program required to be established for DIA by this section. This program shall be directly patterned after the successful critical skills acquisition program authorized for the NSA by Congress in the Intelligence Authorization Act of Fiscal Year 1987 and the comparable CIA program (see H. Rept. 99-690, part 1, pages 26-32 and H. Rept. 100-591, part 1, pages 15 and 16). The conferees intend that these programs be administered in a substantially similar fashion, particularly in regard to the types of payments and benefits provided, service obligations, and conditions of reimbursement.

The critical skills acquisition program required by this provision is intended to provide a further means for DIA to improve its recruitment of women, minorities and handicapped persons possessing skills critical to the mission of DIA. This program would permit DIA to pay for the undergraduate education of qualified high school students who are interested in obtaining a baccalaureate degree in a critical skill area required for positions at DIA. In exchange for this financial assistance from DIA, the student participant would undertake an obligation to work for DIA for a period of one-and-one-half years for each year or partial year of schooling.

The conferees direct that prior to undertaking any recruitment pursuant to this provision, DIA should provide to the Senate Select Committee on Intelligence and the House Permanent Select Committee on Intelligence a listing of its priority critical skills by cate-

gory. These categories should be limited to positions which require specialized training at the college level (e.g., language specialists, technicians, ADP specialists) rather than those that can be filled by persons without specialized training. DIA should also provide its targets for minority recruitment as well as its regulations for implementation of this program. It is anticipated that goals for minority hire and upward mobility will be correlated to those critical skills identified by DIA as being in short supply within its work force. This program is aimed at filling those critical intelligence and intelligence support skills so identified as well as the desirable goal of assisting in achieving minority representation better throughout the DIA work force.

TITLE VI—FBI ENHANCED COUNTERINTELLIGENCE AUTHORITIES

SECTION 601

Section 601 of the conference report modifies subsection 601(a)(2) of the Intelligence Authorization Act for Fiscal Year 1989 by eliminating the requirement that only FBI employees in the New York Field Division who are "subject by policy and practice to directed geographical transfer or reassignment" could be eligible for periodic payments as part of the five-year demonstration project authorized by that Act. Section 601 also directs the President to fully consider the recommendations of the National Advisory Commission on Law Enforcement regarding federal law enforcement compensation in preparing the Fiscal Year 1991 budget. Section 601 is identical to section 601 of the House bill and the Senate amendment, except that the Senate amendment did not contain the October 1 effective date provision and the House bill did not contain the provision relating to the National Advisory Commission on Law Enforcement.

SECTION 602

Section 602 of the conference report contains a "sense of Congress" provision which addresses possible future increases in the ceiling on permanent positions at the United States Mission in the Soviet Union and at the Soviet Mission in the United States. Section 602 is identical to section 602 of the Senate amendment except that subsection (a) has been changed to require that the determination referred to therein be made by the President rather than by the National Security Council. The House bill did not contain a similar provision.

SECTION 603

Section 603 of the conference report provides that the FBI shall supervise the conduct of all investigations of violations of the espionage laws of the United States by persons employed by or assigned to United States diplomatic missions abroad who are themselves subject to U.S. law. Section 603 is substantially similar to section 603 of the Senate amendment. The House bill did not contain a similar program.

Section 603 was adopted by the Senate for the purpose of assigning to the FBI overall responsibility for the conduct of espionage

investigations at U.S. embassies and other diplomatic establishments outside the United States. Recent espionage cases at such locations have highlighted the lack of overall, uniform direction governing such investigations.

Various departments and agencies of the U.S. Government assign personnel to U.S. diplomatic establishments. These include both civilian and military personnel as well as contractor employees. When particular employees who are subject to U.S. laws are suspected of espionage, the agency with responsibility for any ensuing investigation has depended upon the particular office within an embassy employing the individual concerned. For example, if military personnel were involved, the investigating agency would depend upon the branch of service of the serviceman concerned. If the employee were a civilian, the investigation might be carried out by the FBI alone or acting in concert with other appropriate investigative elements. By making the FBI responsible for the conduct of all such investigations, the Senate sought to ensure that the U.S. agency with predominance in the counterintelligence field would, indeed, direct all such investigations, regardless of the employing department or agency, and would thereby develop expertise in dealing with such cases at diplomatic establishments that would, in time, improve the efficiency and results of such investigations in general.

The Conference Report adopts the Senate provision, with three modifications:

(1) The conferees added specific language to the provision, making clear that the FBI's responsibility here is subject to the authority of the Attorney General. This would be implicit in any case, but the Conferees believe it desirable to specify this relationship in the statute itself for two reasons. First, it is contemplated that the Attorney General will establish guidelines and policies, in consultation with affected departments and agencies, to implement this section. Such guidelines would, among other things, take into account CIA's responsibility under Executive Order 12333 to coordinate counterintelligence activities abroad, the DCI's responsibility under that Order to coordinate foreign liaison relationships, and the DCI's responsibilities under the National Security Act of 1947 to protect intelligence sources and methods. Second, it is contemplated that should such departments or agencies have concerns with respect to the FBI's exercise of this authority in particular cases, their recourse would be to raise the matter with the Attorney General for resolution.

(2) The second change to the Senate formulation makes clear that the FBI's authority in these circumstances should be to supervise the conduct of espionage investigations, not necessarily to carry out all such investigations itself. Departments and agencies that have investigative capabilities and authorities insofar as their own personnel are concerned should not be precluded from using such capabilities and authorities when it is appropriate and desirable to do so. For example, each of the military departments has concurrent authority to conduct espionage investigations of its own servicemen under the Uniform Code of Military Justice (UCMJ), utilizing investigative techniques that are, in some cases, more readily available in overseas locations than those available to civil

law enforcement authorities. By assigning the FBI a coordination rule for such investigations, the Conferees do not intend to preclude use of investigators employed by other departments and agencies or the use of techniques authorized such investigators where it is appropriate and desirable to utilize them. Indeed, the Conferees anticipate that any espionage investigation conducted at a diplomatic establishment would ordinarily involve the participation of any investigative agency with concurrent jurisdiction over the subject and the use of all lawful investigative techniques that would facilitate the investigation.

While the Conferees intend that the FBI will supervise all such investigations, whether FBI agents will be dispatched to a particular diplomatic establishment where an investigation is occurring will depend upon the circumstances of the case, including the availability of FBI agents for such purpose. The intent is that the FBI shall exercise overall supervision of those investigations that it does not conduct or participate in and that the FBI shall be informed contemporaneously of all significant developments in such investigations.

(3) The third adjustment to the Senate provision is to clarify that departments and agencies should be legally required to report to the FBI any information concerning violations of the espionage statutes which they have identified. The language in the Senate amendment would have required the reporting of any information "indicating" a violation of the espionage statutes. While the Conferees agree that the FBI should be brought into such situations at the earliest appropriate opportunity, they were concerned that the Senate formulation would be interpreted as requiring the reporting of all types of information concerning U.S. employees at diplomatic establishments to the FBI which might be construed as "indications" of espionage, whether or not such employee or employees had, in fact, been identified as a suspect in an espionage investigation.

The Conferees intend that, at a minimum, any department or agency which identifies a particular U.S. employee or employees at a U.S. diplomatic establishment as possibly having violated the espionage laws of the United States be reported at once to the FBI. Consultations at earlier stages with appropriate FBI Headquarters offices are encouraged, but the Conferees intend that the FBI take responsibility for the coordination of such investigations only after one or more espionage suspects have been identified. Thus, investigations of security violations or of suspected violations of regulations which might be eventually be linked to espionage, e.g. violation of fraternization rules, engaging in black market activities, etc., are left in the hands of existing investigative authorities until such investigations develop evidence of a link to a foreign government. Similarly, unsubstantiated, non-specific information coming to the attention of elements within a diplomatic establishment is not required to be reported to the FBI under this provision unless such information links a particular employee or employees to possible espionage. Again, seeking FBI Headquarters assessment of such information is encouraged, but the statute itself does not impose a reporting requirement in these circumstances. There may be, for example, legitimate concerns among departments and agencies who

receive such information that premature dissemination of such information and subsequent investigative actions based thereon could unnecessarily expose sensitive confidential sources.

The conferees note that Section 603 is not intended to alter current practice between the CIA and the FBI under Executive Order 12333 and its implementing procedures. The conferees understand that the CIA promptly informs the FBI when Agency counterintelligence activities indicate that a named individual employed by or assigned to a U.S. diplomatic mission abroad is engaged in espionage for or on behalf of a foreign power.

Furthermore, the conferees intend that where CIA has acquired such information from another U.S. agency, primary responsibility for reporting that information to the Bureau shall repose with that other agency, although CIA may inform the FBI of that information as well.

The Conferees also note that section 603 applies only to the conduct of espionage investigations, not to the decision whether to prosecute, or whether to prosecute in a civil or military court. These are decisions made by the Department of Justice in consultation with affected departments or agencies.

The Conferees further note that a decision by the FBI to terminate, or to decline to pursue, an espionage investigation under this provision, does not preclude departments or agencies with concurrent authority from continuing to investigate pursuant to such authority, or from continuing to investigate lesser or related offenses occasioned by the same conduct, for prosecution or appropriate administrative actions; provided that information concerning violations of the espionage statutes which may be subsequently developed shall be reported immediately to the FBI. Thus, in a case where the FBI decides to close an investigation of a military serviceman for espionage, the military investigative agency concerned may nonetheless continue its investigation or continue to develop additional evidence of lesser offenses—for example, failure of the serviceman concerned to report unauthorized contacts with foreign nationals—as the basis for courts martial or non-judicial punishment under the UCMJ. Should such investigations produce information concerning violation of the espionage statutes, however, such information must be reported immediately to the FBI.

It is also not intended that the responsibility assigned the FBI by this section to coordinate the conduct of investigations be construed as authority for the FBI to coordinate the conduct of damage assessments which would ordinarily ensue in these circumstances. This would be left to the department or agency whose classified information was the subject of the compromise in question.

Finally, this provision is intended solely to regulate interagency relationships, and shall not be construed to establish a defense to any matter based upon actions taken by the Department of Defense or any other department or agency with authority to investigate and dispose of allegations of espionage.

TITLE VII—GENERAL PROVISIONS

SECTION 701

Section 701 of the conference report provides that appropriations authorized by the conference report for salary, pay, retirement and other benefits for Federal employees may be increased by such additional or supplemental amounts as may be necessary for increases in such compensation or benefits authorized by law. Section 701 is identical to section 701 of the House bill and the Senate amendment.

SECTION 702

Section 702 of the conference report provides that the authorization of appropriations by the conference report shall not be deemed to constitute authority for the conduct of any intelligence activity which is not otherwise authorized by the Constitution or laws of the United States. Section 702 is identical to section 702 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 703

Section 703 of the conference report requires the President to submit a report to Congress by April 1, 1990 setting forth a plan to integrate counternarcotics intelligence activities, including all analysis and dissemination of narcotics intelligence information, and recommendations for the appropriate control and coordination of all such activity. Section 703 is identical to section 704 of the House bill. The Senate amendment did not contain a similar provision.

SECTION 801

Section 801 of the conference report establishes a statutory Inspector General at the Central Intelligence Agency. Section 801, among other things, requires the Inspector General to submit semi-annual reports to the Director of Central Intelligence and to the intelligence committees which must include a list by title or subject of each inspection, investigation, or audit conducted by the Inspector General. Section 801 further provides that the Director, when a request therefor is made by the Chairman or Ranking Minority Member of either intelligence committee, shall, pursuant to title V of the National Security Act of 1947, provide to the committees a copy of any report of an inspection, investigation, or audit conducted by the Office of Inspector General.

Section 801 combines section 801 of the Senate amendment and section 402 of the House bill, with the latter modified to note that the request for copies of Inspector General reports should come from the Chairman or Ranking Minority Member of either intelligence committee.

The conferees point out that section 501(a)(2) of the National Security Act of 1947 requires the Director of Central Intelligence, among others, to "furnish any information or material concerning intelligence activities which is in the possession, custody, or control of any department, agency, or entity of the United States and which is requested by either of the intelligence committees in order

to carry out its authorized responsibilities" Therefore, the provision included in the conference report concerning intelligence committee access to Inspector General reports is intended to make clear that the legal obligation of the DCI to "furnish any information or material," including Inspector General reports, continues with the creation of a statutory Inspector General at CIA.

The conferees do not anticipate that the intelligence committees will frequently seek access to inspection reports of the Inspector General. Further, it is recognized that certain inspection reports (as opposed to reports of audits or investigations) may be considered very sensitive because among other things, they contain confidential statements made by identifiable CIA employees or contain sensitive ongoing internal deliberations. In such cases, the committees anticipate that their requirements may be satisfied by a comprehensive summary of the report that would include a discussion of the reports scope, the approach used by the IG team that drafted the report, the principal findings and recommendations of the report, and any actions taken by senior CIA management as a result of the report. Where such a summary is not sufficient to enable the committees to perform adequately their oversight function, access to the report itself may be necessary. However, the committees would always anticipate discussing their needs for such reports with CIA officials prior to their making a request for them pursuant to this section.

PROVISIONS NOT INCLUDED IN THE CONFERENCE REPORT

DRUG TESTING

Section 705 of the House bill required the Director of Central Intelligence to institute a random drug testing program for employees of the CIA. The Senate amendment did not contain a similar provision and the conferees have agreed to the Senate position.

The conferees note that CIA maintains an active drug awareness and prevention program and is actively committed to preventing and detecting drug use among CIA employees.

The CIA's drug detection program includes background investigations of all applicants, specifically focusing on whether applicants may use or abuse drugs or alcohol. Applicants are also given medical examinations that screen urine and blood samples. Psychological assessments are made of applicants to determine behavior that could indicate abuse of drugs or alcohol. Finally, every applicant is given a polygraph examination to determine whether the applicant has abused drugs or alcohol.

The CIA's program for a drug-free workplace does not end with the acceptance of an applicant for employment. The Agency continues to be vigilant against drug abuse among its employees. Agency policy requires that new employees be subject to reinvestigation after three years. This reinvestigation includes another medical examination and another polygraph examination that covers substance abuse during the time of employment at the Agency. Agency employees are also subject to periodic routine reinvestigations. A specific issue polygraph examination and/or a fitness-for-duty medical examination may be conducted at any time if there are indications of drug abuse.

Should the conferees, through the oversight activities of the intelligence committees, determine that a drug problem has developed at the CIA, the issue of random drug testing will be reexamined.

DOMESTIC PROCUREMENT

The House bill contained a provision, Section 705, which would authorize the Director to award certain contracts to domestic firms. The Senate amendment contained no comparable provision. The conferees agreed that inclusion of Section 705 was unnecessary because it is unlikely that the Director would ever be in a position to exercise the option to award contracts to domestic firms that, under the use of competitive procedures, would be awarded to a foreign firm. The CIA, for example, goes to great lengths to enter contracts with firms that are not subject to foreign influence. As a result of this security concern, CIA contracts almost exclusively with domestic companies already.

Even if the Director could ever exercise the option called for, the requirement of coordination with the United States Trade Representative and the Secretary of Commerce raises serious problems with compartmentation of classified information. Details of operational activities would have to be shared with other agencies in ways that are not the normal course of business for CIA. Creating new channels of dissemination of classified information necessarily puts that information at risk.

PRESIDENT'S FOREIGN INTELLIGENCE ADVISORY BOARD (PFIAB)

Section 703 of the House bill contained a provision requiring the President to issue financial disclosure and reporting regulations applicable to members of PFIAB. The Senate amendment did not contain a similar provision. The conferees adopted the Senate position.

OVERSIGHT PROVISIONS

Title IX of the Senate amendment, revising the intelligence oversight provisions of title V of the National Security Act of 1947, was, except for the provision in the bills regarding notice to the intelligence committees within 48 hours of the approval of a covert action, substantially the same as legislation (S. 1721 and H.R. 3822) reported by the intelligence committees during the 100th Congress (S. Rept. 100-276; H. Rept. 100-705, parts 1 and 2), and which had passed the Senate in 1988 by a margin of 71-19. There was no comparable provision in the House bill.

The conferees agreed that this title would make a number of valuable changes in the intelligence oversight framework. The House conferees believed, however, that certain provisions of this title might be further improved with additional consideration by the intelligence committees. Inasmuch as these provisions were inextricably related to other provisions, and in light of the limited time remaining in this session of the 101st Congress to consider such improvements, the House conferees proposed that action on title IX be deferred until the next session. With the understanding that the issues addressed in title IX of the Senate amendment will be recon-

sidered by both committees during the second session of the 101st Congress, the Senate receded to the House position.

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From the Committee on Foreign Affairs, for the consideration of Title IX of the Senate amendment:

DANTE B. FASCELL,
LEE H. HAMILTON,

From the Committee on Armed Services, for the consideration of Department of Defense Tactical Intelligence and related activities:

LES ASPIN,
H. MARTIN LANCASTER,
WM. L. DICKINSON,

From the Committee on the Judiciary, for the consideration of Sections 503 and 601 of the Senate amendment:

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Managers on the Part of the House.

DAVID LYLE BOREN,
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BILL BRADLEY,
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From the Armed Services Committee:

J.J. EXON,
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Managers on the Part of the Senate.